



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 5, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0059

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant previously¹ alleged that Named Employee #1 (NE#1) and Named Employee #2 (NE#2) arrested her for driving under the influence (DUI). The Complainant said she was denied restroom access and water. The Complainant also alleged that the named employees retaliated against her by tightening her handcuffs for requesting legal representation. OPA investigated those allegations under 2022OPA-0322, which were not sustained - unfounded.

Separately but related to the same incident, the Complainant alleged that the named employees engaged in bias-based policing due to her race and disability. Specifically, the Complainant said she was "tortured for being autistic, for asking questions, for being disabled and Black." That allegation is covered in this DCM.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

SUMMARY OF INVESTIGATION:

OPA reviewed the incident report, body-worn video (BWV), and SPD detention logs. OPA also interviewed the Complainant.



A. Original Complaint (2022OPA-0322), Additional Complaint (2023OPA-0059), and OPA Interview

On September 30, 2022, the Complainant submitted her original OPA complaint alleging the named employees mistreated her during a driving under the influence (DUI) arrest. Specifically, the Complainant said the named employees denied her bathroom access despite her suffering from a bladder issue requiring frequent relief. The Complainant said she was forced to urinate on a holding cell's floor. The Complainant also alleged that even after consulting with an attorney, she did not understand the forms the named employees asked her to sign. The Complainant stated the named employees tightly re-applied handcuffs twice in retaliation for refusing to say she understood the paperwork. The Complainant said she was tightly handcuffed for six hours.

On October 10, 2022, OPA interviewed the Complainant. She said she told the named employees about her medical condition while she was transported to the West Precinct. The Complainant also stated that the tight handcuffs caused bruising. OPA requested photos, but the Complainant did not provide them.

The Complainant submitted another OPA complaint on February 6, 2023, alleging she was "tortured for being autistic, for asking questions, for being disabled and black." OPA corresponded with the Complainant via email about her bias-based policing allegation. Her complaint mirrored claims raised in her initial OPA complaint.

B. Body-Worn Video (BWV) & SPD Adult Detainee Log

The named employees' BWV captured their interactions with the Complainant. OPA also reviewed the SPD adult detainee log, documenting the booking, release, and cell-checks conducted by the named employees.

BWV showed NE#1's DUI investigation at the incident location. The named employees applied two sets of handcuffs on the Complainant. They also issued *Miranda* warnings. The Complainant said she did not understand the *Miranda* warnings. NE#1 said she would explain the *Miranda* warnings at the precinct. NE#1 asked the Complainant whether she had medical conditions which could be mistaken for impairment. The Complainant replied that she had a medical condition that caused pain in her bowels, bladder, and intestines and impacted her balance. NE#1 asked for the specific condition, which the Complainant provided. The Complainant did not state that her condition required frequent restroom use.

The named employees transported the Complainant to the West Precinct. As NE#1 escorted the Complainant into the precinct, the Complainant slipped her left hand from the handcuffs. BWV captured her raising her uncuffed left hand. NE#2 re-handcuffed the Complainant and placed her in a holding cell. The detainee log showed the Complainant entered the cell at 3:10 AM.²

Around 3:20 AM, BWV showed the Complainant doing a handstand in the cell.

² Daylight-Saving Time took effect that morning. At 02:00 AM, clocks jumped forward one hour to 3:00 AM.



Around 3:30 AM, NE#1 reissued *Miranda* warnings. The Complainant said she understood her rights and requested a lawyer. Around 3:50 AM, the Complainant spoke with an on-call attorney. NE#1 told the Complainant she had twenty minutes for the call. Around 4:10 AM, NE#1 returned to take the phone, but the Complainant requested more time. NE#1 gave the Complainant an additional five minutes. The detainee log showed that NE#1's cell was checked at 4:10 AM.

NE#1 gave the Complainant an Implied Consent Warnings sheet. The Complainant said she did not understand or recall which forms the attorney told her to sign. The Complainant asked NE#1 to explain the form. NE#1 explained she could not give legal advice but offered to re-read it. The Complainant signed the Implied Consent Warning form but declined to sign Warning #4 concerning additional testing. NE#1 escorted the Complainant back to her cell.

At 4:37 AM, NE#2 conducted a cell check. During that cell check, NE#2 told the Complainant they applied for a blood draw search warrant, and after that, the Complainant would be released. The Complainant asked NE#2 for water, which NE#2 provided.

The detainee log Sheet showed another cell check was conducted at 5:10 AM. No BWV depicted that cell check.

At 5:24 AM, the Complainant signaled NE#2 for another cell check. The Complainant asked NE#2 why she needed to be handcuffed inside a holding cell. NE#2 explained it was department policy. The Complainant said she urinated on the floor because she could not get anyone's attention.

At 5:34 AM, the Complainant told NE#2 that her handcuffs were too tight. NE#2 adjusted the Complainant's handcuffs and advised her to keep her palms facing one another to reduce discomfort. The Complainant again questioned the need for the handcuffs. NE#2 again explained it was department policy.

At 5:56 AM, NE#2 gave the Complainant a cup of water. NE#2 also told the Complainant that a judge approved a blood draw search warrant.

C. Incident Report

NE#1 wrote the related incident report. It was generally consistent with BWV. Additionally, NE#1's report stated she checked the Complainant's holding cell several times and found her singing and doing yoga poses. NE#1 wrote that she applied for a blood draw warrant after the Complainant could not provide breath samples.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing

The Complainant alleged NE#1 engaged in bias-based police by "torturing" the Complainant because she was disabled and Black.



SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. This includes different treatments based on the race of the subject. See id.

Here, OPA previously investigated the Complainant’s allegations that NE#1 mistreated her during a DUI arrest. Those allegations were not sustained - unfounded. OPA reviewed relevant BWV, which did not show NE#1 or NE#2 engaging in biased-based policing based on the Complainant’s race or disability. Rather, the named employees treated the Complainant professionally throughout her detention at the West Precinct.

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #2 - Allegation #1

5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing

For the reasons at Named Employee #1 - Allegation #1, OPA recommends this allegation be Not Sustained - Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**